



**Minutes of the Government Records Council
June 29, 2021 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:32 p.m. by Ms. Robin Berg Tabakin via Microsoft Teams.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag.

- **Meeting Notice**

Ms. Berg Tabakin read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on June 24, 2021.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Salma Chand, Esq. (designee of Department of Education Acting Commissioner Dr. Angelica Allen-McMillan), Gina Trish (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver), and Steven Ritardi, Esq., Public Member.

GRC Staff in Attendance: Frank F. Caruso (Executive Director), Rosemond Bordzoe (Secretary), John Stewart (Mediator), Samuel Rosado (Staff Attorney), Deputy Attorney General Debra Allen, Braelyn Jones (NJ Division of Law Intern), and Robert Chance (NJ Division of Law Intern).

Ms. Berg Tabakin called for a motion to amend the agenda to move GRC Complaint No. 2020-112 from Section VI(B) to VI(A) based on a recusal. Ms. Chand made a motion, which was seconded by Ms. Trish.

II. Executive Director's Report:

Current Statistics

- Since OPRA's inception in July 2002, the GRC has received 5,731 Denial of Access Complaints. That averages about 302 annual complaints per nearly 19 program years. So far in the current program year (FY2021), the GRC has received 260 Denial of Access Complaints.
- 348 of the 5,731 complaints remain open and active (6.1%). Of those open cases:
 - 6 complaint is on appeal with the Appellate Division (1.7%);
 - 21 complaints are currently in mediation (6.0%);
 - 5 complaint are proposed for the Office of Administrative Law (1.4%);
 - 28 complaints await adjudication by the Office of Administrative Law (8.0%);
 - 94 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (27.0%);
 - 194 complaints are work in progress (55.7%); and
 - 0 complaints are being held in abeyance (0.0%).
- Since Program Year 2004, the GRC has received and responded to 34,147 total inquiries, averaging about 1,897 annual inquiries per nearly 18 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2021), the GRC has received 1,759 inquiries (7.2 inquiries per workday).

III. Closed Session:

- Wayne Levante v. Town of Newton (Sussex) (2018-127) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Eric Jones v. Plainfield Public School District (Cape May) (2019-45) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Marcella Aylwin v. Egg Harbor City (Atlantic) (2019-191) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

Ms. Berg Tabakin called for a motion to go into closed session. Ms. Trish made a motion, and Ms. Chand seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 1:39 p.m. until 2:09 p.m.

Ms. Berg Tabakin called for a motion to end the closed session. Ms. Chand made a motion, which was seconded by Ms. Trish. The Council adopted the motion by a unanimous vote. Open Session reconvened at 2:12 p.m., and Ms. Bordzoe called roll.

- Present: Ms. Berg Tabakin, Ms. Chand, Ms. Trish, Mr. Ritardi, Ms. Jones, and Mr. Chance.

IV. Approval of Minutes of Previous Meetings:

May 18, 2021 Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the May 18, 2021 meeting. Ms. Trish made a motion, which was seconded by Mr. Ritardi. The motion passed by a unanimous vote; Mr. Ritardi abstained.

V. New Business – Cases Scheduled for Adjudication

Ms. Berg Tabakin stated that an “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Executive Director’s recommendation of dismissal based on jurisdictional, procedural, or other defects of the complaint. The reason for the Administrative Disposition is under each complaint below:

A. Administrative Disposition Adjudications with Recusals (Consent Agenda): None

B. Administrative Disposition Adjudications with no Recusals (Consent Agenda):

1. **Darlene R. Esposito v. Moving and Self Storage (Bergen) (2021-106)**
 - Request Made to a Non-Public Agency.
2. **Linda A. Evans v. Monmouth Family Health & Dental Center (Monmouth) (2021-107)**
 - Request Made to a Non-Public Agency.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Mr. Ritardi made a motion, which was seconded by Ms. Chand. The motion passed by a unanimous vote.

C. Administrative Disposition of Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required):

1. **David Weiner v. County of Essex (2020-194)**
 - Complaint Settled in Mediation.
2. **David Weiner v. County of Essex (2020-226)**
 - Complaint Settled in Mediation.
3. **Mary Ann Thompson v. City of Paterson (Passaic) (2021-15)**
 - Complaint Settled in Mediation.
4. **Jim Brennenstuhl v. NJ Division of Consumer Affairs (2021-39)**
 - Complaint Voluntarily Withdrawn.
5. **Jason Maxey Schupp v. NJ Department of Banking and Insurance (2021-98)**
 - Complaint Voluntarily Withdrawn.

6. **Brittany Suszan (o/b/o Spotcrime) v. City of Newark (Essex) (2021-111)**

- Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

A. Individual Complaint Adjudications with Recusals:

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for Agenda item Nos. 1 through 6 to ensure his non-participation in those items from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda items.

A brief summary of the Executive Director's recommended action is under each complaint:

1. **Joseph Semaan v. City of Hackensack (Bergen) (2019-118) (SR Recusal)**

- The Council must perform an *in camera* review of the records responsive to the subject OPRA request to determine the validity of the Custodian's assertion that they contain personal and medical information exempt from access under OPRA. N.J.S.A. 47:1A-1; N.J.S.A. 47:1A-9(a); Executive Order No. 26 (Gov. McGreevey, 2002).
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

2. **Stephen Bialkowski v. Parking Authority of the City of Newark (Essex) (2019-198) (SR Recusal)**

- The Council shall dismiss this complaint because the Complainant withdrew it in writing on May 21, 2021.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

3. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Paterson Police Department (Passaic) (2020-56) (SR Recusal)**

- The Custodian did not violate N.J.S.A. 47:1A-5(c) because the special service charge of \$807.52 is warranted and reasonable. Courier Post v. Lenape Reg'l High Sch. Dist., 360 N.J. Super. 191, 199 (Law Div. 2002). Further, the Custodian provided the Complainant an opportunity to accept or reject the fee. Thus, the Custodian shall grant access to the responsive records upon payment

of the special service charge. Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).

- The knowing and willful and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

4. **Erv-Wikine Pryor v. Essex County Prosecutor's Office (2020-63) (SR Recusal)**

- The Custodian complied with the Council's May 18, 2021 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

5. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Hoboken (Hudson) (2020-80) (SR Recusal)**

- The Custodian may have unlawfully denied access to the Complainant's OPRA request item Nos. 1 and 2. The Custodian shall confirm whether Hoboken Police Department can extract the responsive information electronically and, if so, disclose same. Paff v. Twp. of Galloway, 229 N.J. 340 (2017).
- The Custodian may have unlawfully denied access to the Complainant's OPRA request item No. 3 and must either disclose the responsive records or certify if none exist.
- The knowing and willful and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

6. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Paramus (Bergen) (2020-112) (SR Recusal)**

- The Custodian may have unlawfully denied access to the Complainant's March 16, 2020 OPRA request. N.J.S.A. 47:1A-6. The Custodian must either locate and disclose responsive records or certify if none exist.
- The knowing and willful and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin

called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

Ms. Berg Tabakin again noted that Ms. Trish would be muted for Agenda item No. 7 to ensure her non-participation in the item from which she was recused. Ms. Berg Tabakin confirmed to the public that Ms. Trish was muted prior to addressing the below agenda items.

7. **Scott Madlinger v. Atlantic City Police Department (Atlantic) (2019-206) (GT Recusal)**

- This complaint should be tabled for additional review.
- Ms. Berg Tabakin called for a motion to table the above complaint. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote; Ms. Trish recused.

Ms. Berg Tabakin notified the public that Ms. Trish would rejoin the meeting by unmuting herself. Ms. Trish rejoined the meeting at that time.

B. Individual Complaint Adjudications with no Recusals:

1. **Wayne Levante v. Town of Newton (Sussex) (2018-127)**

- The Custodian failed to comply with the Council's May 19, 2020 Interim Order.
- The Custodian shall comply with the Council's *In Camera* Examination Findings.
- The Custodian shall disclose all non-exempt portions of the responsive e-mails. See Ray v. Freedom Acad. Charter Sch. (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

2. **Alfred Savio v. West Cape May Board of Education (Cape May) (2018-256)**

- The Council should accept the Administrative Law Judge's findings and adopt the Order dismissing this complaint.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and

recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

3. **Eric Jones v. Plainfield Public School District (Union) (2019-45)**

- The Custodian failed to comply with the Council's August 25, 2020 Interim Order.
- The *In Camera* Examination reveals that the Custodian lawfully denied access to the requested records.
- There is no knowing and willful violation.
- The Complainant is not a prevailing party.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

4. **Brittany Olt v. City of Camden (Camden) (2019-88)**

- The Custodian did not fully comply with the Council's April 27, 2021 Interim Order.
- There is no knowing and willful violation.
- The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

5. **Thomas Banksy v. Kean University (2019-185)**

- The Custodian timely responded to the Complainant's OPRA request item Nos. 1, 3, and 4 based on warranted and substantiated extensions. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); See also Rodriguez v. Kean Univ., GRC Complaint No. 2016-196 (February 2018).
- The Custodian did not timely respond to the Complainant's OPRA request item No. 2 seeking immediate access records. N.J.S.A. 47:1A-5(e); Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007). However, the GRC declines to order disclosure because the Custodian did so on September 6, 2019.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

6. **Marcella Aylwin v. Egg Harbor City (Atlantic) (2019-191)**
 - This complaint should be tabled for additional review.
 - Ms. Berg Tabakin called for a motion to table the above complaint. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

7. **Carol Scutro v. City of Linden (Union) (2019-207)**
 - The Custodian failed to comply with the Council's April 27, 2021 Interim Order.
 - There is no knowing and willful violation.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

8. **James Pappas v. West Morris Regional High School District (Morris) (2019-229)**
 - The Complainant's request for reconsideration should be denied.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

9. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Union City (Union) (2020-19)**
 - The Custodian complied with the Council's May 18, 2021 Interim Order.
 - The Council should grant the Custodian a final opportunity to provide a full and complete 14-point analysis.
 - The knowing and willful and prevailing party analyses are deferred.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

10. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Elizabeth Police Department (Union) (2020-39)**
 - The Custodian did not violate N.J.S.A. 47:1A-5(c) because the special service charge of \$7,285.52 is warranted and reasonable. Courier Post, 360 N.J. Super. at 199. Further, the Custodian demonstrated the copying costs associated with electronic disclosure represented an "actual cost." Paff v. Twp. of Teaneck (Bergen), GRC Complaint No. 2010-09 (Interim Order dated May 24, 2011). Thus, the Custodian shall grant access to the responsive records upon payment of the special service charge. Paff, GRC 2006-54.
 - The knowing and willful and prevailing party analyses are deferred.

- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

11. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Lacey (Ocean) (2020-44)**

- The Custodian may have unlawfully denied access to the responsive complaints and summonses. N.J.S.A. 47:1A-6; Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (July 2004). Thus, the Custodian shall either locate and disclose responsive records, pending a special service charge if applicable, or certify if none exist.
- The knowing and willful and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

12. **Joseph Maddaloni, Jr., Esq. (o/b/o Renaissance School Services, LLC.) v. The Kingdom Charter School of Leadership (Camden) (2020-66)**

- The Complainant’s request for reconsideration should be denied. The Council’s December 15, 2020 Interim Order remains in effect.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

13. **Anonymous v. Borough of Haledon (Passaic) (2020-82)**

- The Custodian’s failure to timely respond resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian may have unlawfully denied access to two (2) summonses. Macek v. Bergen Cnty. Sheriff’s Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019). The Custodian shall perform a search and either disclose located records or certify if none exist.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

14. **Anonymous v. Borough of Haledon (Passaic) (2020-89)**

- The Custodian's failure to locate additional responsive records until after the filing of the instant complaint resulted in an insufficient search. Weiner v. Cnty. of Essex, GRC Complaint No. 2013-52 (September 2013). However, the GRC declines to order disclosure of the additional records because the Custodian did so as part of the Statement of Information ("SOI").
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

15. **Anonymous v. Borough of Haledon (Passaic) (2020-93)**

- The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian did not unlawfully deny access to any responsive records because he disclosed all that existed. N.J.S.A. 47:1A-6; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

16. **Anonymous v. Borough of Haledon (Passaic) (2020-97)**

- The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). However, the GRC declines to order disclosure because the Custodian did so on June 9, 2020.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

17. **Anonymous v. Borough of Haledon (Passaic) (2020-98)**

- The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian failed to disclose one (1) Computer-Aided Dispatch report and fourteen (14) summonses. Macek, GRC 2017-156. The Custodian shall perform a search and disclose all responsive records and/or certify if none exist.
- The knowing and willful analysis is deferred.

- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

18. **Anonymous v. Passaic County Sheriff’s Office (2020-99)**

19. **Anonymous v. Passaic County Sheriff’s Office (2020-101) Consolidated**

- Although requesting that the Complainant complete the County’s official form may have been a violation of OPRA, the Custodian mooted the issue by responding to the subject OPRA requests based on their original submission. Renna v. Cnty. of Union, 407 N.J. Super. 230, 232 (App. Div. 2009). Further, the County’s available methods of transmission do not present an unreasonable obstacle for anonymous requestors. Paff v. Bordentown Fire Dist. No. 2 (Burlington), GRC Complaint No. 2012-158 (Interim Order dated May 28, 2013). Thus, no violation of OPRA occurred.
- The Custodian borne her burden of proof that she timely responded to the subject OPRA requests. N.J.S.A. 47:1A-6.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

20. **Anonymous v. Passaic County Sheriff’s Office (2020-106)**

- The Custodian’s failure to timely respond (due to an e-mail typo) resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). However, the GRC declines to order disclosure because the Custodian resent her response to the Complainant as part of the SOI on July 14, 2020.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

21. **Jonathan Meyers, Esq. (o/b/o Brenda Sanchez) v. NJ Office of the State Long-Term Care Ombudsman (2020-127)**

- The New Jersey Long-Term Ombudsman is a “public agency” for purposes of OPRA. N.J.S.A. 47:1A-1.1.
- The Custodian lawfully denied access to the subject OPRA request. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.S.A. 52:27G-13(a).
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as amended. Mr. Rosado noted that additional facts were added to paragraphs on page 3 and 4 of the findings and recommendations. Mr. Rosado noted that the conclusions remained

unchanged. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

VII. Court Decisions of GRC Complaints on Appeal: None

VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:

- In re AG Law Enf't Directive Nos. 2020-5 & 2020-6, 2021 N.J. LEXIS 486 (2021): The New Jersey Supreme Court affirms the Appellate Division's ruling that the Attorney General ("AG") acted within his authority to issue the directives requiring police agencies to publicize the names of officers receiving major discipline. The Court also found that because the AG directives have the force of law for law enforcement agencies, the directives did not abrogate OPRA.
- Simmons v. Mercado, 2021 N.J. LEXIS 557 (2021): The Court held that because police officers create the information contained in the requested CDR-1 or CDR-2 forms, they fell within OPRA's definition of a government record. The Court found that a government official does not have to maintain electronic information to be subject to access if he or she makes them in the course of his or her official business. The Court also found that the Appellant's OPRA request was narrowly tailored and did not require research. Reversed and reinstated the order of the trial court.

X. Public Comment:

- Ms. Darlene Esposito (GRC Complaint No. 2021-106): Ms. Esposito stated that she did not hear her case called and wanted to confirm if her case was heard. Mr. Caruso stated that her complaint was administratively disposed of because the identified party was not a public agency. Mr. Caruso further stated that Ms. Esposito could contact her case manager if she had any questions regarding the Council's decision.
- City of Camden Clerk's Office (GRC Complaint No. 2019-88): They did not hear the conclusion of the case and wanted it repeated. Mr. Caruso re-read the proposed conclusions and advised that the decision would be disseminated to all parties within five (5) to ten (10) business days following receipt of the Council's Order.
- Ms. Linda Evans (GRC Complaint No. 2021-107): Ms. Evans wanted to know the status of her case. Mr. Caruso stated that her complaint was administratively disposed of because the identified party was not a public agency. Mr. Caruso further stated that Ms. Evans could contact her case manager if she had any questions regarding the Council's decision.

XI. Adjournment:

Ms. Berg Tabakin called for a motion to end the Council meeting. Ms. Chand made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

The meeting adjourned at 2:47 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: July 27, 2021